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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,743	12/15/2005	James G. Hildebrandt	32149.001	1692
7590	02/05/2010		EXAMINER	
Susan S. Jackson Kennedy Covington Lobdell & Hickman, L.L.P. Hearst Tower, 47th Floor 214 North Tryon Street Charlotte, NC 28202			PAUL, DISLER	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/560,743	HILDEBRANDT, JAMES G.	
	Examiner	Art Unit	
	DISLER PAUL	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 November 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2,3 and 5-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 2,3 and 5-21 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

The applicant's timely response with the Affidavit has been considered and is persuasive, thus, has overcome the examiner's last final office action.

However, upon further consideration, the claim has been rejected over new prior art as in Yuugo (US JP 57-041095).

Thus, this office action is now made non-final.

Claim Objections

Claim 14 is objected to for being dependent on a cancelled claim as in (four), appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 5-6, 15-16, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuugo (US JP 57-041095).

Claim 2, Yuugo disclose of a headset apparatus comprising: at least first and second speakers (fig.1 (73, 83); Abstract), each speaker comprising a speaker chamber extending posteriorly therefrom (Abstract; fig.1 (71, 81); the case posterior the speakers); at least one first tube connected adjacent a first end thereof anterior to the first speaker; and at least one second tube connected adjacent a first end thereof anterior to the second speaker (fig.1 (9); Abstract; Tube (9) so as to connect adjacent thereof anterior of the left and right speakers (73,83)); a first outlet at a second end of the at least one first tube for positioning the at least one first outlet at a first position adjacent a user's first ear; and a second outlet at a second end of the at least one second tube for positioning the at least one second outlet at a second position adjacent a user's second ear (fig.1 (9); Abstract ; the tube with the conduit/opening outlet being each adjacent the user's left and right ears); wherein the at least one first tube is continuous with the at least one second tube at respective first ends thereof such that tube paths of the at least one first tube and the at least one second tube are formed to meet intermediate the first and second speakers (fig.1 (9-10); Abstract, the tubes are are continuous at end to meet with (10) and being intermediate the left and right speakers (73,83)).

Re claim 5, the headset apparatus of claim 2 further comprising ear engaging members for housing the first and second outlets (fig.1 (74,84)).

Re claim 6, the headset apparatus of claim 2 wherein the first and second outlets each flare outwardly in a direction away from the first and second tubes respectively (fig.1 (9); with conduit/opening to ear away from the general tubes).

Re claim 15, the headset apparatus of claim 5 wherein the ear engaging members are perforated (Abstract; fig.1 (82, 84); earpad has diaphragm and audio sound to be output to the listener and thus inherently is perforated).

Re claim 16, the headset apparatus of claim 2 wherein the at least one first and second speakers and the at least one first and second tubes are positioned generally on top of a user head or in a substantially horizontal plane generally at sides of a user head (fig.1)/the speakers and tubes being placed sides of the user's head).

Re claim 20, the headset apparatus of claim 2, further comprising an electronic controller to control emissions of the first and second speakers (Abstract; fig.1(10)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 7-11, 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuugo (US JP 57-041095) and Meucci Jr (US 6,038,330).

Claim 3, the headset apparatus of claim 2, but, Yuugo fail to disclose of wherein the chamber is an acoustically sealed, ported or vented chamber. But, Meucci Jr. disclose of a headset wherein having a chamber as being an acoustically sealed, ported or vented chamber (fig.5 (70); col.8 line 25-35/chamber with opening) so that the wire may be routed outward through the open end and terminated in a suitable electrical connector. Thus, it would have been obvious for one of the ordinary skills in the art to have implemented the chamber is an acoustically sealed, ported or vented chamber so that the wire may be routed outward through the open end and terminated in a suitable electrical connector.

Similarly, Re claim 7 which cite the similar claim limitation as in claim 3 has been analyzed and rejected accordingly.

Re claim 8, the headset apparatus of claim 2, but, Yuugo fail to disclose of the chamber is provided with sound absorbing material on a rearwardly disposed interior surface thereof. But, Meucci Jr. disclose of a headset wherein having a chamber being provided with sound absorbing material on a rearwardly disposed interior surface thereof (fig.5 (58); fig.4 (80); col.7 line 25-40) so as to reduced the sound from propagating inward to the interior chamber and the ear of the listener. Thus, it would

have been obvious for one of the ordinary skills in the art to have modified the prior art with implementing the chamber is provided with sound absorbing material on a rearwardly disposed interior surface thereof so as to reduced the sound from propagating inward to the interior chamber and the ear of the listener.

Re claim 9, the headset apparatus of claim 2, but, Yuugo fail to disclose of the wherein at least one of the first and second tubes is provided with sound absorbing material therein between a respective first end thereof and a respective first or second speaker. But, Meucci Jr. disclose of a headset wherein having the first and second tubes is provided with sound absorbing material therein between a respective first end thereof and a respective first or second speaker (fig.5 (58); fig.4 (80); col.7 line 25-40) so as to reduced the sound from propagating inward to the interior chamber and the ear of the listener. Thus, it would have been obvious for one of the ordinary skills in the art to have modified the prior art with implementing the first and second tubes is provided with sound absorbing material therein between a respective first end thereof and a respective first or second speaker so as to reduced the sound from propagating inward to the interior chamber and the ear of the listener.

Re claim 10, the headset apparatus of claim 9, with having the sound absorbing material being provided along the tubes in reducing the sound signal, thus, similarly, it would have been obvious for one of the ordinary skill in the art to have such sound

absorbing material as substantially blocks the at least one of the first and second tubes so as to reduce and control the sound level being provided to the user's ear.

Re claim 11, the headset apparatus of claim 9, with having the sound absorbing material being provided along the tubes, thus, similarly, it would have been obvious for one of the ordinary skill in the art to have such sound absorbing material as partially blocks the at least one of the first and second tubes so as to reduce and control the sound level being provided to the user's ear.

Re claim 17, the headset apparatus of claim 2, but, Yuugo et al. fail to disclose of comprising four or more speakers. But, Meucci Jr. disclose of such headset wherein having four or more speakers (fig.4 (40)/with having plurality of speakers) so as to create a three-dimensional and high spatial perceived surround sound for the listener. Thus, it would have been obvious for one of the ordinary skill in the art to have implemented the prior art with having the speakers as being four or more speakers so as to create a three-dimensional and high spatial perceived surround sound for the listener.

Re claim 18, the headset apparatus of claim 17, with the speakers and having tubes being connected therein adjacent to the speakers and adjacent to the user's ear ; thus, similarly it would have been obvious for one of the ordinary skill in the art to have

tried in having such tubes connected to the speakers as wherein: a third tube is connected adjacent a first end thereof to a third speaker, a second end of the third tube for positioning adjacent the user's first ear, and a fourth tube is connected adjacent a first end thereof to a fourth speaker, a end of the fourth tube for positioning adjacent the user's ear second ear so as to create a three-dimensional and high spatial perceived surround sound for the listener.

Claim 19, the headset apparatus of claim 18, wherein having the four speakers, Similarly, it would have been obvious for one of the ordinary skill in the art to have the four speaker as being specifically front-left and front right speakers and rear-left and rear-right speakers for creating the surround, high spatial perceive sound for the listener.

The combined teaching of Yuugo et al. and Meucci Jr. as a whole, further disclose of having the connection of the tubes with the surround speakers (Yuugo, fig.1). thus, similarly, it would have been obvious for one of the ordinary skill in the art to have such tubes as being interconnected to the surround speakers as being the first and second speakers are front-left and front-right speakers and the first and second tubes connected adjacent thereto terminate in the anterior portion of left and fight ear cups respectively, and wherein, the third and fourth speakers are rear-left and rear-right speakers and the third and fourth tubes connected adjacent thereto terminate in the

posterior portion of left and right ear cups respectively so as to generate the spatial, three dimensional surround sound to the listener.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuugo (US JP 57-041095).

Re claim 14, the headset apparatus of claim 2, however, Yuugo fail to disclose of the ear engaging members are provided with sound absorbing material on an inner surface thereof . But, official notice is taken having the ear engaging members are provided with sound absorbing material on an inner surface thereof is well known in the art. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the prior art with implementing the ear engaging members are provided with sound absorbing material on an inner surface thereof so as to reduce/eliminate the sound to reverberate into the transducer/speaker unit and thus prevent noise distortion.

Claim 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuugo (US JP 57-041095) and Yamagishi (US 5,459, 290).

Re claim 12, the headset apparatus of claim 2 further comprising at least one speaker adjacent the user ear, but, Yuugo fail to disclose of the specific wherein the speaker being of a bass speaker. But, Yamagishi disclose of a headset wherein the specific wherein the speaker being of a bass speaker adjacent the use ear (col.5 line 5-

30) for purpose of producing sound in wide frequency band for improve sound. Thus, it would have been obvious for one of the ordinary skill in the art to have modified the combination with having the speaker being of a bass speaker adjacent the use ear for purpose of producing sound in wide frequency band for improve sound.

Re claim 13, the headset apparatus of claim 12 wherein the at least one bass speaker is housed within an ear engaging member (fig.1-3).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuugo (US JP 57-041095) and Shin (US 2002/0094094 A1).

Claim 21, the headset apparatus of claim 2 , but, Yuugo fail to disclose of further comprising a slider joint between the ear engaging members and the first and second outlets for enabling adjustment of a connection length between the ear engaging members and the first and second outlets when the user ear is moved relative to the headset apparatus.

But, Shin disclose of a system wherein having a slider joint between the ear engaging members for enabling adjustment of a connection length between the ear engaging members when the user ear is moved relative to the headset apparatus (fig.4 B; fig.2; par [0045, 0047]) so as to allow the length of the headset device to be adjusted accordingly as desire based on the user's need. Thus, it would have been obvious for

one of the ordinary skill in the art to have implemented the ear engaging members for enabling adjustment of a connection length between the ear engaging members when the user ear is moved relative to the headset apparatus so as to allow the length of the headset device to be adjusted accordingly as desire based on the user's need for thereby providing proper size headset according to the listener.

Thus, it would have been obvious for one of the ordinary skills in the art to have the slider as being between the ear engaging members and the first and second outlets for enabling adjustment of a connection length between the ear engaging members and the first and second outlets so as to allow the length of the headset device to be adjusted accordingly as desire based on the user's need for thereby providing proper size headset according to the listener.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DISLER PAUL whose telephone number is (571)270-1187. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./
Examiner, Art Unit 2614

/Xu Mei/
Primary Examiner, Art Unit 2614